

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1682.01
COMPLAINT INVESTIGATOR:	Sandie Scudder
DATE OF COMPLAINT:	February 7, 2001
DATE OF REPORT:	March 9, 2001
REQUEST FOR RECONSIDERATION:	yes (no revisions were made to original report)
DATE OF CLOSURE:	April 17, 2001

COMPLAINT ISSUES:

Whether the MSD of Washington Township violated:

- 511 IAC 7-27-5(d) with regard to the school's alleged failure to obtain written parental consent prior to making a change of placement for the student, specifically with regard to the student's participation in a specific reading program.
- 511 IAC 7-25-7 with regard to the school's alleged failure to complete an additional evaluation and convene the case conference committee within 60 instructional days of the date of written parental consent.

During the course of the investigation, an additional issue was identified, which is:

Whether the MSD of Washington Township violated:

- 511 IAC 7-27-4(c)(3) with regard to the school's alleged failure to include positive behavioral interventions and supports to address a student's behavior that impedes his or her learning or that of others.

FINDINGS OF FACT:

1. The Student is 13 years old and is eligible for special education and related services as a student with a Learning Disability and a Communication Disorder. The Student is enrolled one-half day at the local middle school and one-half day at a private school.
2. The Student enrolled in the local school corporation for the 2000-2001 school year, having moved from another Indiana school corporation at the end of the previous school year. The Student received special education and related services in the school corporation in which he was previously enrolled. On August 14, 2000, the case conference committee ("CCC") convened and determined the least restrictive environment to be general education classes with special education and related services outside the general education classroom for less than 21% of the instructional day. The parent requested that a speech/language evaluation be conducted and also advised that she was enrolling the Student part time in a local private school.
3. The speech/language evaluation was conducted, and the results were faxed to the parent on August 31, 2000. The CCC convened on September 1, 2000. The CCC changed the Student's placement to receiving special education and related services outside the general education

classroom for 21% to 60% of the instructional day. The CCC agreed that a hearing evaluation and additional testing as determined by the school psychologist would be completed. The parent unilaterally enrolled the Student in the private school for part of the instructional day.

4. The additional evaluations were conducted, and the CCC convened on September 27, 2000, to discuss the evaluation results. The IEP was reviewed and revised. The CCC decided that further evaluations were needed: (a) to determine the Student's need for occupational therapy; (b) to determine the existence of a disability within the autism spectrum disorder category; (c) to determine the existence of attention deficit disorder; and (d) to identify any visual processing problems.
5. The additional evaluations were conducted, and the CCC convened on November 6, 2000, to discuss the evaluation results. The CCC determined that evaluations of social and medical/psychological needs through a private provider were warranted.
6. The private provider conducted the evaluations on December 1, 2000, and recommended consultation with a pediatric neurologist for a comprehensive examination, including an EEG and an MRI.
7. The neurologic consultation was conducted on December 22, 2000, but despite the School's numerous attempts, the neurologist did not forward the report to the School until February 5, 2001. The MRI and EEG were conducted on February 15, 2001. The neurologist notified the School on March 5, 2001 that he received the results of the EEG and MRI and wanted to meet with the parent prior to discussing the results with the School. The parent is scheduled to meet with the neurologist on March 9, 2001, and the CCC will convene subsequent to the parent's meeting with the neurologist.
8. School was not in session on November 23 and 24, 2000; from December 23, 2000, through January 7, 2001; on January 15, 2001; and on February 19, 2001.
9. The CCC Report/IEP dated September 27, 2000, indicates the CCC recommendation for and the parent's agreement for the Student to participate in a specific reading program at the School. The Student participated in the program during the first semester. However, during the second semester, the program is offered during the time the Student would be attending the private school. On February 8, the School notified the parent of the time conflict and advised that the Student would need to be at the public school during the afternoon if the parent wanted the Student to continue in the program.
10. At the November 6, 2000, CCC meeting, the CCC determined that some of the Student's behaviors were impeding the Student's learning or the learning of others. The CCC Report form states that if the CCC determines the existence of this special factor, the CCC "must consider behavior strategies, positive interventions strategies and supports." However, there is no indication in the CCC Report/IEP that any behavior strategies were considered.

CONCLUSIONS:

1. Findings of Fact #3 and #9 indicate the parent unilaterally enrolled the Student in a private school for part of the instructional day. During the first semester, the Student's private school attendance did not interfere with the reading program identified in the Student's IEP. The reading program is available to the Student during the second semester, but it is offered during the time the Student attends the private school. Because the reading program remains available to the Student, but the parent has chosen to have the Student attend the private school at that time, no change of

placement without parental consent has occurred, and no violation of 511 IAC 7-27-5(d) is found.

2. Findings of Fact #2, #3, #4, #5, and #6 indicate that additional evaluations have been requested at various times since August 14, 2000. The evaluations have been conducted and the CCC meetings were convened within the 60 instructional day timeline. Finding of Facts #6 and #7 indicate that one of the additional evaluations was requested on November 6, 2000, and was to be done by a private provider. The evaluation resulted in recommendations on December 1, 2000, that further medical consultation and testing be completed. The consultation and additional tests were completed in December 2000 and February 2001. The parent is scheduled to meet with the neurologist, and a CCC meeting will be convened. Sixty instructional days from the date the subsequent medical evaluations were recommended will not elapse until March 15, 2001. Therefore, no violation of 511 IAC 7-25-7 is found.
3. Finding of Fact #10 indicates that, on November 6, 2000, the CCC determined that some of the Student's behaviors were impeding the Student's learning or the learning of others. However, there is no indication that the CCC considered any strategies to address these behaviors. Therefore, a violation of 511 IAC 7-27-4(c)(3) occurred.

The Department of Education, Division of Special Education requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The MSD of Washington Township shall reconvene the CCC to consider the need for strategies, including positive behavioral interventions and supports, to address the behaviors that interfere with the Student's learning or the learning of others. The CCC's consideration and/or discussion of these strategies shall be documented in the CCC Report/IEP. Submit a copy of the CCC Report/IEP to the Division no later than April 6, 2001.